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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

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SUMMARY RECORD OF THE 1228th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 12 August 1997, at 3 p.m.

Chairman: Mr. BANTON

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Eleventh to fourteenth periodic reports of Argentina (CERD/C/299/Add.11; HRI/CORE/1/Add.74)

1. At the invitation of the Chairman, Mr. Benitez, Mr. Plorutti, Mr. Chelia and Mr. Pereda (Argentina) took places at the Committee table.

2. Mr. BENITEZ (Argentina), referring to major trends in immigration in Argentina and the country's recent social and economic development, said that the traditional policy of welcoming foreigners had made the country into a multiracial and multicultural society, and was the source of both a great deal of diversity along with a number of problems. The population of the Argentine Republic, which stood at 32,615,528 in 1991, was mainly composed of descendants of European immigrants from Spain and Italy, but also from Central Europe and the Middle East. Foreigners accounted for 5 per cent of the total, with half coming from neighbouring countries and half from other regions, especially Central and Eastern Europe which had been offered particularly favourable immigration conditions since 1994. In 1991 a special law had made it possible for some 250,000 citizens of bordering countries (Bolivia, Brazil, Chile, Paraguay and Uruguay) to obtain the status of legal residents.

3. Since 1989, Argentina had experienced a profound transformation of its economy along with far-reaching institutional reforms, which had been carried out in a spirit of democracy and had heavily influenced the social and economic situation of its inhabitants. That had led to strong economic growth, which had stood at around 8 per cent for the first quarter of 1997, as well as a remarkable improvement in the national human development index. On the other hand, President Menem had recently been obliged to launch a major social plan to fight unemployment, which was reaching unusually high levels.

4. Turning to matters of direct concern to the Committee, he reaffirmed that the Argentine Government condemned and combatted all discrimination, and in particular racism, as the most flagrant negation of human rights and fundamental freedoms, and xenophobia. It also strived to protect the rights of ethnic, religious, social and linguistic minorities and advocated the concept of unity within diversity. Argentina was committed to a policy of eliminating all forms of racial discrimination and promoting of harmonious relations among all races. To achieve that, it had undertaken a constitutional reform in 1994, which was described in the report under consideration, and in particular in the section on article 2.

5. He recalled that the Convention was ranked equally with the Constitution, as were the numerous international human rights instruments ratified by Argentina and listed in document HRI/CORE/1/Add.74 (paras. 80 and 81), and that it took precedence over national legislation. International instruments were interpreted in Argentina solely on the basis of their own provisions, without reference to any other legal sources and separately from the acts giving them force of law domestically.

6. Mr. PLORUTTI said that Argentina had established two bodies, the Office of the Under-Secretary for Human Rights within the Ministry of the Interior, and the Office of the Under-Secretary for Human Rights at the international level, under the Ministry of Foreign Affairs, International Trade and Worship. The numerous programmes and activities of the former body were presented in detail in the core document (HRI/CORE/1/Add.74, para. 50), while the latter body played an important role in the domestic application of international human rights standards (see HRI/CORE/1/Add.74, paras. 51 to 53). The new National Institute to Combat Discrimination, Xenophobia and Racism (INADI) part of the Ministry of the Interior, undertook practical measures to combat those evils (HRI/CORE/1/Add.74, paras. 56 and 57). The Argentine Government had set up a commission of inquiry to shed light on Nazi activities in the country during the Second World War and their post-war consequences, the commission had been given broad powers to fulfil its mission and one of its duties was to report any act which was clearly of a criminal nature.

7. Mr. PEREDA (Argentina) said that Argentina, with an indigenous population numbering between 450,000 and 550,000 (or about 1.5 per cent of the total) belonging to 16 ethnic groups in 12 provinces, steadfastly protected its indigenous communities. In the same spirit, it fully participated in the activities of all international and especially inter-American bodies dealing with indigenous affairs. Argentina was further more a member of the Governing Board of the Fund for the Development of the Indigenous peoples of Latin America and the Caribbean.

8. Through the constitutional reform adopted in 1994, Argentina had recognized the ethnic and cultural prior existence of the indigenous peoples of Argentina, the ethnic and cultural diversity of those peoples, the legal personality of their communities and the possession and common ownership of the lands traditionally occupied by them. It had tried to ensure that their knowledge would be passed on thanks to bilingual and cross-cultural education, and to preserve their heritage by declaring their lands to be neither inalienable, nor transferable, nor subject to lien, distraint or taxation, while at the same time arranging for the future transfer of them of sufficient land of good quality to ensure their development and participation in the management of natural resources.

9. On 25 October 1996, in Chubut province, the President of the Republic had launched the National Plan for Indigenous Communities, and on the same occasion had announced the transfer of 250,000 hectares of inalienable lands to the Mapuche communities. The plan was based on the hand-over of good quality land under a project funded by the National Institute of Indigenous Affairs, legal recognition of the indigenous community's own methods of organization and administration, and the development of an educational programme aimed at strengthening the indigenous communities' identity, by eliminating cultural barriers and by facilitating access to social and economic programmes offered by the State and by various organizations. The educational programme would serve several priority objectives, including the development of bilingual and cross-cultural education, the training of bilingual indigenous teachers, and the provision of vocational training for indigenous people. The programme was funded from the national budget and from a special $5 million credit granted by the Inter-American Development Bank.

10. A comprehensive development programme had also been implemented for the department of Ramón Lista (Formosa province), where most inhabitants belonged to the Wichi community and which was the poorest department in the country. Argentine provinces with indigenous populations had on the whole made considerable headway in terms of both legislation and services. The progress was especially significant in Formosa province, where more than 400,000 hectares of land had been transferred to the indigenous peoples. Steps were also under consideration to legalize the situation of lands occupied by indigenous communities in the provinces of Chaco and Misiones.

11. In March 1997, the Argentine Government transferred to the Kolla community of Salta province 125,000 hectares of land purchased for that purpose by the State at a cost US$ 5 million. In the same province, there was currently a legal dispute between a United States company, Seabort, and the Kolla communities, who were legally occupying lands received partly from the State and partly from the San Martín de Tartagal company, which had transferred the land to them before it had been taken over by Seabort. The land had incorrectly been included on the list of San Martín de Tartagal assets which had been sent to Seabort. The National Institute of Indigenous Affairs was acting as a mediator in the dispute, and had succeeded in securing the intervention of the Public Prosecutor's office to guarantee the full exercise of the Kollas' rights to the land.

12. With respect to the disputes involving the Mapuche authorities of Aigo de Catalán, Puel and Currumil, the Mapuche authorities of Zalazar, Calfinahuel, Caitruz and Ñanchucheo, and the Pulmarí Public Body (CIP), the competent authorities were trying to find a solution to permit the indigenous communities to exercise fully their historical rights to the land exploited by the CIP. At the same time, they were attempting to determine the responsibilities of the CIP, which had been set up partly to foster the social and economic development of the indigenous communities of the region by means of paid agricultural and other activities. The CIP might eventually have to pay compensation to the indigenous communities affected. In February 1996, the Neuquén workers' association and the Mapuche organizations' coordination bureau had also brought the case before the International Labour Organization. The Argentine Government and the Government of Neuguén province had established a mediation board to settle the disputes arising among the various communities, and between certain communities and the CIP as quickly as possible. So far, the board had met three times, and had taken note of the indigenous communities' claims. Furthermore, the National Institute of Indigenous Affairs had concluded agreements with the provinces of Chubut, Jujuy, Misiones, Formosa and Neuquén, under which it provided the technical assistance required to map out lands in the public domain inhabited by indigenous communities.

13. Programmes had been launched to facilitate indigenous communities' access to education while respecting their cultural identity. The programmes, which covered some 800 schools with 30,000 schoolchildren between the ages of 5 and 17, included the teaching of indigenous languages. Furthermore, the National Institute of Indigenous Affairs, supporting the initiatives of the Ministry of Education, had granted nearly 1,000 scholarships to train indigenous teachers who would be capable of providing bilingual and cross-cultural education.

14. The CHAIRMAN, speaking as a member of the Committee, noted with satisfaction that Argentina, a democratic country, had achieved progress in the economic field and that the Argentine Government considered racial discrimination to be incompatible with both democracy and economic progress. He also thanked the delegation for providing plentiful supplementary information in its preliminary observations on the implementation of the Convention.

15. Mr. DE GOUTTES (Country Rapporteur) noted with satisfaction that Argentina's report was in conformity with the Committee's guidelines for the form and content of reports, and that the Argentine Government had submitted a core document containing demographic statistics and data on social and economic indicators, as well as information on the legal framework for the protection of human rights. He had hoped that the Argentine delegation would, in its oral presentation - which had otherwise been excellent - add to the information given in the report on the political, economic and social situation in Argentina and to that available in the press, by commenting on the difficulties caused by rising poverty, corruption, crime and insecurity, and the question of the independence of the judicial system. While those issues were not directly related to the Convention, they could help to explain many situations in which discrimination occurred.

16. Regarding indigenous populations, the information given in paragraphs 14 to 28 of the report was very useful, especially concerning the sizes of the various communities, the impact of the constitutional reform and Act No. 23 302, and the action programmes of the National Institute of Indigenous Affairs and the National Institute to Combat Discrimination, Xenophobia and Racism. He noted with satisfaction that the Argentine President had launched a national plan in favour of indigenous communities. How were indigenous peoples represented within the National Institute of Indigenous Affairs? Noting with interest the Institute's activities in the areas of rural development, culture, health care, stockbreeding and ancestral lands on behalf of the Wichi community in El Sauzalito and elsewhere in Chaco province, he wondered whether similar steps had been taken in other municipalities. Pointing out that the report did not contain the information that the Committee had requested in 1991 on the extent of representation of indigenous populations in the Congress, the administration, the police and the judiciary he said would welcome more information in that respect.

17. As for the very sensitive question of the transferral of land ownership to indigenous populations, he asked the Argentine delegation to provide more details concerning the land dispute between indigenous communities in Salta province and the San Martín de Tartagal Company. According to the press and indigenous representatives, over 100,000 hectares were involved, and there had been judicial proceedings. The European Parliament, which had been informed of the case, had reportedly adopted a resolution in early July 1997. Did the Government plan to intervene to settle the dispute?

18. He further asked about the scale of the migration of indigenous and rural populations to major cities, the resulting problems in suburban shanty towns, such as crime, drug addiction, prostitution and trafficking, and the problem of street children, which the Government had mentioned in the report considered by the Committee on the Rights of the Child on

10 and 11 October 1994 (A/51/41). Paragraph 29 of the report referred to Decree No. 1033/92, under which 250,000 nationals of neighbouring countries living illegally in Argentina had been granted permanent residence permits. However, paragraph 31 indicated that the decree had lapsed. What system currently applied to immigrants who had since that time illegally entered Argentina? Did the system differ depending on whether the immigrants were nationals of Mercosur States or of other countries? He also wondered whether any bilateral agreements such as the one concluded with Bolivia had been negotiated with other countries of the region.

19. He pointed out that the Bill amending General Act No. 22 439 on immigration had elicited strong reactions from human rights organizations, the Catholic Church and several neighbouring countries. Even some members of the Government had protested because of the excessively restrictive nature of the Bill, which they considered xenophobic, unconstitutional and contrary to the Mercosur agreement. It appeared from artic'es in the press and documents he had been sent by the Argentine Permanent Mission in Geneva that one of the most criticized provisions of the Bill offered monetary rewards to anyone reporting illegal immigrants to the authorities. It was that denouncement incentive which had been most heavily criticized. According to the newspaper La Nación, such anti-immigrant legislation reflected a tendency that was not unique to Argentina, and that followed a logic based purely on economic considerations and the laws of the international market, which were increasingly taking precedence over humanistic concerns and human rights. Furthermore, the tendency was reportedly due to the reactions of the most disadvantaged Argentine citizens, who were living in conditions of poverty similar to those of the immigrants, and who perceived the latter as a threat to their employment and security. The Catholic Commission on Migrations had described the situation as a war of the poor against the poor. Such tendencies, which reflected an increase in xenophobia, were alarming. Could the delegation inform the Committee of the current status of the bill? Was it true that the President himself had requested that the most criticized provisions of the bill be removed?

20. With regard to anti-Semitism, in 1991 the Committee had noted, during its consideration of the tenth periodic report of Argentina, that there had been no mention of that question in the report, although there was a large Jewish community in Argentina (300,000 people in 1991), the country had a history of anti-Semitism, and discrimination had persisted in some areas, one example being the systematic exclusion of Jews from some major institutions such as the armed forces (paragraph 55 of the Committee's concluding observations on the tenth report of Argentina). With the exception of the judicial case mentioned in paragraph 40, the report under consideration did not deal with that question either. And yet a large demonstration had been held on 18 July in Buenos Aires to protest against crimes which had gone unpunished and judicial delays in the inquiries into the attacks in July 1994 against the Argentine Jewish Mutual Aid Association and on 17 March 1992 against the Israeli Embassy. Could the Argentine delegation inform the Committee regarding the status of those inquiries and any legal action which might have been taken following those attacks, and regarding other anti-Semitic incidents reported in the press, in particular the desecration of Jewish tombs reportedly committed on 20 July 1997 at the Villa Clara cemetery (Entre Ríos province).

21. With regard to the application of article 2, the report stated that, with the reform of the Constitution in 1994, human rights treaties, including the International Convention on the Elimination of All Forms of Racial Discrimination, had been given preferential ranking, second only to the Constitution. It would be useful to know the legal consequences of that preferential status. Did Argentina recognize the so-called "monistic" system only with respect to human rights treaties, and could those treaties be invoked directly by individuals in court, even when they were not directly applicable, as was the case with the Convention? What was the situation of the Laotian refugees, who had arrived in Argentina between 1970 and 1980 and had wanted to return to their country but had been unable to do so for lack of financial resources?

22. Regarding article 4, paragraph 37 of the report indicated that Act No. 23 592 of 21 August 1988 increased the penalties provided under the Penal Code for racially inspired crimes and made it possible to combat extremist organizations advocating racist ideologies. That raised two questions, which had already been brought up in 1991 during consideration of the preceding report. Firstly, even though racist intent was considered an aggravating circumstance for all offences, that did not obviate the need to declare the offences explicitly mentioned in article 4 of the Convention punishable by law. Could the Argentine delegation specify what other provisions of the Penal Code penalized racist acts in all their forms? Secondly, it was regrettable that the report did not give more examples of sentences that had been handed down or cases that had been brought. That information had been requested during consideration of the preceding report, along with information on extremist groups that incited racial discrimination. Indeed, the two cases referred to in paragraph 38 of the report were too general and did not specifically concern racial discrimination. On the other hand, the case of retired General Suarez Mason, who had been convicted of incitement to racial hatred (paragraph 40) was of great interest, as the judge had given precedence to the right to protection against racial insults over the right to freedom of expression. Lastly, it would be useful if the Argentine delegation could give details of the activities of the Ombudsman, or "Defensor del Pueblo", whose post was established in December 1993, and those of the Ombudsman designated in October 1985 by the Buenos Aires municipal authorities, specifically indicating the number of cases of racial discrimination handled by both.

23. The information on article 5 was extremely succinct, as none of the rights enumerated in it were subject to restrictions in Argentina, except for the right to vote. He asked whether the bill to grant paid leave to Muslims for certain religious holidays, as had been done for Jews (paragraph 42) had been definitively adopted, and whether such rights had been extended to other religious communities as well.

24. The information provided on article 6 (paragraphs 45 to 50) was useful but insufficient, as there were no statistics on complaints, prosecutions and trials relating to racism, on amparo proceedings initiated since the entry into force of the 1994 constitutional reform establishing that possibility, or on the number of complaints received by the National Institute to Combat Discrimination, Xenophobia and Racism.

25. Regarding article 7, the report contained useful information on the activities carried out in various fields by the National Institute of Indigenous Affairs. The projects carried out for the Wichi people in the municipality of El Sauzalito provided an excellent example. Had any similar experiments been carried out elsewhere in the country? On the other hand, information was lacking regarding practical action taken by the National Institute to Combat Discrimination, Xenophobia and Racism, established in 1995, and by the National Anti-Discrimination Programme, which had been set up to support the work of non-governmental organizations in the area of popular education through "urgent measures intended to provide an immediate response to an act of discrimination" (paragraph 54). While that was an original initiative, the Committee should be informed of the way in which it was applied in practice.

26. The human rights education programmes, introduced by the National Promotion Directorate of the Office of the Under-Secretary for Human and Social Rights, working under the Ministry of the Interior, were of great interest. It would be useful to provide the Committee with some practical examples of their application in two key areas, which were the training of personnel responsible for law enforcement, who were most often in contact with people in difficulty or most excluded from society, and the dissemination of the Committee's periodic reports and its concluding observations.

27. Finally, he asked whether the Argentine Government was planning to make the declaration referred to in article 14 of the Convention concerning communications from individuals.

28. Mr. SHERIFIS noted that international human rights instruments had been given constitutional rank under the revised Argentine Constitution. If that actually meant that in the event of a conflict between the International Convention on the Elimination of All Forms of Racial Discrimination and another treaty, the provisions of the Convention would prevail, then clearly that was a welcome development.

29. Concerning the fundamental rights guaranteed to all "inhabitants" of the Argentine Republic, which included both nationals and foreigners (para. 4), did that mean that they were all entitled to vote and to stand in legislative and municipal elections, as was the case in some, though all too few, countries? What were the precise functions and composition of the National Institute to Combat Discrimination, Xenophobia and Racism (INADI)? What was the relationship between that body and the National Anti-Discrimination Programme? Were they separate bodies, or was one dependent on the other, and if so, then which was the subordinate one? Decree No. 232/92 had done away with reservations applying to documents concerning Nazi criminals, and had ordered that such documents be made available to the General Archives of the Nation "within 30 days" (para. 11). Could the Argentine delegation confirm that the decree had been applied within that time frame.

30. The recognition of the indigenous communities as legal entities resulting from the 1994 reform of the Constitution (paragraph 13a) must have had repercussions, and it would be useful for the Committee to be informed of

them. In that connection, the Committee would also appreciate a confirmation of the spectacular figure quoted for the total land area returned or about to be returned to the Wichi community, namely 1,600,000 hectares.

31. With regard to the situation of immigrants, especially of Bolivian nationals living illegally in the country (paragraphb 32), what had been the outcome after the 120-day deadline set by the Presidents of Argentina and Bolivia as from 19 November 1996 for the completion of negotiations on the subject? With regard to refugees, he welcomed the establishment of the Refugee Eligibility Committee on which the UNHCR was represented (paragraph 34), but he would like, either at the current session or in the country's next report, to receive statistics on the number of refugees registered. What was the meaning of the term "religious communities of some consequence" employed in paragraph 42 of the report, which mentioned paid leave granted to some communities for religious holidays? Was it to be understood that such arrangements were not made for members of other communities, which might be considered of lesser consequence?

32. Only 24 countries had made the optional declaration provided under article 14 of the Convention. Argentina was thus not unusual in that respect. On the other hand, had the Argentine Government initiated a procedure to ratify the amendment of article 8, paragraph 6, of the Convention? If not, it should do so without delay. Finally, he said he would like to know whether the Committee's reports and concluding observations were made public in Argentina.

33. Mr. WOLFRUM praised the Argentine Government for the excellent report it had submitted. It represented a great improvement over the previous report, and demonstrated that Argentina, especially as far as indigenous populations were concerned, was already applying the guiding principles that the Committee was considering for a draft general recommendation (CERD/C/51/Misc.13/Rev.1), especially in relation to indigenous peoples. In that respect, the right to bilingual and cross-cultural education had come to be recognized under the Constitution (paragraph 17), but it would be useful to have information on the number of indigenous groups and children receiving such education, as well as the financial resources employed.

34. Article 75 of the Argentine Constitution provided for the return of land to indigenous communities. However, the figures provided by independent sources did not at all correspond with those given in the report of Argentina and its annex, especially with respect to the area of land transferred in Formosa province to the Wichi, Toba and Chorote communities. Had the indigenous peoples who made their living from fishing been consulted before the decision was taken to change the course of the Comallo River? He would also like more details on the incidents which had occurred between the Mapuche community and a major corporation, and on the progress made in implementing certain programmes for indigenous peoples. While the return of land to indigenous communities could be said to be first and foremost dependent upon the proper functioning of an independent judiciary, it was worth noting that the report provided no information in that respect.

35. According to paragraph 17 of the report, article 75 of the Constitution stipulated that "Congress shall ensure the participation of indigenous peoples in the management of their natural resources and other matters concerning them" and that "the provinces shall be entitled to exercise these powers concurrently". The German Constitution, which had similarly assigned a concurrent role to the provinces in certain fields, had been changed, because it had been found that the exercise of power in such circumstances was extremely dangerous in the absence of sufficient supervision.

36. With regard to the question which had already been raised concerning the declaration under article 14 of the Convention, he would like confirmation that the Parliament had opted not to follow up an initiative in favour of a declaration, though it had already been approved. On the whole, the new Argentine Constitution was in many ways exemplary. Just the same, it would be worth having more detailed information on its practical application, as implementation was always more difficult in practice.

37. Mr. VALENCIA RODRIGUEZ noted that action taken to combat racial discrimination in Argentina was based on international human rights instruments, including the Convention. Since Argentina appeared to apply the monistic system, it would no doubt be possible to invoke the Convention directly in court. If that was so, then perhaps the Argentine delegation could refer to cases in which that had occurred.

38. He noted with satisfaction the interpretation that the Supreme Court of Justice had given to the term "inhabitants", which referred to all persons residing in the national territory, as mentioned in paragraph 4 of the report. On the other hand, some explanation was required concerning the interpretation by the same Court of the application of the principle of equality before the law between nationals and foreigners, mentioned in paragraph 8. What was covered by the concept of reasonably equal circumstances (razonabilidad), and which situations could be considered by the legislature as "different"?

39. Paragraph 10 mentioned the National Institute to Combat Discrimination, Xenophobia and Racism, whose activities were described in paragraphs 48 to 50. He considered that Argentina, by establishing that Institute, had taken a great step forward, and asked whether that body had ever initiated court action, as it had the power to do. If the Institute could begin such action on its own initiative, its usefulness would no doubt be much greater. He noted another very important step forward in paragraph 13 (a): the recognition of the indigenous communities as legal entities, giving Argentina the status of a multi-ethnic and multicultural country. The information provided in paragraphs 20 to 28 concerning the indigenous peoples, their numbers and the measures taken on their behalf was also of great interest. In view of all that remained to be done to improve the situation of those peoples, in the fields of education, employment and especially land ownership, he hoped that the Argentine Government would continue to keep the Committee informed of the programmes undertaken and results achieved.

40. Argentina had to be congratulated for the measures it had taken to legalize the situation of illegal immigrants, as mentioned in paragraph 29, and for the idea of concluding an immigration agreement with Bolivia, as mentioned in paragraph 32. As the period of 120 days starting on

19 November 1996, which had been allowed by the Presidents of the two countries to complete negotiations on that agreement, had long since lapsed, the Argentine delegation might indicate whether an agreement had been finalized or not. The establishment of the Refugee Eligibility Committee referred to in paragraph 34 should be welcomed. It would be useful, however, to know the composition of the Committee and what results it had achieved.

41. With regard to the application of article 4, he noted that an act of 1988 increased the penalties set out in the Penal Code when the offence committed was of a racist or xenophobic nature. While that act clearly was in keeping with article 4, particularly insofar as it repressed genocide, it apparently lacked any specific provisions to apply paragraphs (a) and (b) of the article. However, he noted that federal judge Claudio Bonadio had taken a very encouraging initiative in bringing charges for incitement to racial or religious hatred, while recalling that freedom of expression should not be taken as a licence to make insults. He asked what the ruling had been in that case.

42. With regard to the implementation of article 6, he asked whether judicial and administrative proceedings had been initiated in application of the relevant texts.

43. Mr. ABOUL-NASR said he wanted to differ from Mr. de Gouttes on two questions. Firstly, he believed there was no reason to insist that a country issue the declaration provided under article 14 of the Convention. The declaration was optional, and did not even prove that the country which made it applied the Convention in earnest. Secondly, Mr. de Gouttes had spoken of a past of anti-Semitism in Argentina. His own sources revealed no such phenomenon, and Mr. de Gouttes' statement in essence amounted to an accusation. Did that mean that countries which, for example, considered doubts cast about the number of Jews killed during the Second World War as an offence, or those which intended to seek reparations only for Jewish victims of Nazism, but not for Gypsies or Slavs, should then be accused of practising actual racial discrimination. Regrettable incidents of course took place practically everywhere, including in Argentina. While such acts should be punished, statements as serious as Mr. de Gouttes' were best avoided.

44. Concerning the report under consideration, he was pleased to note the establishment of the Refugee Eligibility Committee, and would like to know more about its activities. Noting that the indigenous peoples had received land - which had not been given but rather returned to them - he asked whether those communities had also received assistance for the exploitation of the returned land, and whether they had been consulted concerning not only the areas involved but also the quality of the land to which they had a claim. A mention had been made of assistance agreements between Argentina and the Centre for Human Rights. What kind of agreements were involved? Had they had any effect, and had the assistance requested actually been provided?

45. Mr. de GOUTTES, claiming a right of reply, noted that he had been criticized for saying that Argentina had had a past of anti-Semitism. That criticism was too serious to be left unanswered. What he had said reflected not his own personal opinion, but that of the Committee itself, as expressed in paragraph 55 of the report submitted to the General Assembly in 1993, in

the following terms: "Noting that Argentina had a history of anti-Semitism, which occasionally produced anti-Semitic incidents, members pointed out that no reference to this aspect had been made in the report."

46. Mrs. ZOU requested some clarification regarding the measures taken for indigenous peoples. She noted that paragraph 25 (h) referred to a health programme for 40,000 indigenous people, and asked what had been done for the 500,000 others - according to the figure given by the delegation - who were suffering inter alia from various infectious diseases. How many hospitals were available to receive that population and how well were they equipped? Both the Government and the delegation reported that measures had been taken to assist indigenous peoples with their land rights. Details had been provided about the land which had already been handed over, but the Committee had not been informed about the lands which were still to be returned, nor about any Government plan or schedule for the transfer.

47. With regard to education, she noted that it had been announced that 800 schools were to be established for over 30,000 schoolchildren, but the Committee did not know what proportion that represented of the overall number of indigenous children of school age. It had not been informed either whether those children would have access to secondary and higher education, all of which was important, as education played a crucial role in development.

48. She thought Mr. de Gouttes' question on the representation of indigenous people in Parliament and the judiciary was altogether pertinent. For her part, she would like to know whether in areas mainly populated by indigenous people the courts used any language other than Spanish, and whether the population had access to interpretation services, which were vital to ensuring the proper administration of justice. Finally, she would like details of the two cases mentioned in paragraph 38 of the report.

49. Mr. GARVALOV asked whether the constitutional provision referred to in paragraph 5 meant that Argentine citizenship was acquired by jus solis or in some other way, and whether any restrictions applied in either case. Paragraph 7 made it clear that foreigners enjoyed the same civil rights as nationals, which was very positive. However, he did not see how anyone could "marry" in a way which was not "in accordance with the law".

50. He noted that, according to paragraph 9, Argentina had proclaimed 17 March as International Day for the Elimination of Discrimination, whereas the United Nations celebrated the International Day for the Elimination of Racial Discrimination, and he wondered whether the difference was due simply to a translation or printing error. He welcomed the establishment of the National Institute to Combat Discrimination, Xenophobia and Racism, which appeared to be capable of combating discrimination on all fronts.

51. According to paragraphs 13 (b), 16 and 19 of the report, the Constitution had been amended in order to provide genuine protection against discrimination. However, those paragraphs did not say whether the new constitutional provisions were applied directly or whether corresponding enabling legislation still remained to be adopted.

52. Paragraph 37 stated that the opinions of extremist or racist organizations were repellent. That was all well and good, but it did not say whether the organizations advocating such ideas were prohibited. He found the ruling mentioned in paragraph 39 disturbing; while the first part appeared to defend the constitutional principle of equality beyond what was required by the Convention, the second part appeared frankly debatable.

53. Finally, the implementation of article 5 was far from satisfactory, insofar as according to paragraph 44 only distinctions made on racial grounds were forbidden, whereas article 5 also referred to distinctions based on colour and national or ethnic origin.

The meeting rose at 6.05 p.m.